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O.P.No.640 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2023

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

O.P.No.640 of 2021

1.Ramchandra Sarda (61)
S/o.Late Magniram Sarda,
AD 21, 5th Street,
Anna Nagar, Chennai-600 040.

2.Bansidher Sarda,(72)
S/o.Late Magniram Sarda,
J.T, Corporation,
64, Godown Street,
Chennai-600 040.

... Petitioners

vs.

1. Rukmani Devi Sarda, (94) (deceased)
W/o.Late Magniram Sarda,
AD-77, 9 Main Road,
Anna Nagar, Near blue star,
Chennai-600 040.
(1st respondent died and Respondents 2 to 4
are recognised as the legal heirs of deceased
1st respondent)

2. Rampyari Devi, (79) (deceased)
W/o.Salamchand Bisani,
AE-58, 5th Street,
Anna Nagar, Chennai-600 040.
(Amendment carried out as per orders
dated 22.11.2022 and 08.12.2022 in



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A.No.4682 of 2022 in
O.P.No.640 of 2021)

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- 3.Changani Devi, (75)
W/o.Manoharlal Bisani,
No.48, Venkata Lane,
Chennai-600 003.
- 4.Premalata, (68)
W/o.Laxminarayan Bisani,
Flat No.602, Sangini Residency,
City light, Canal Road,
Surat 395 007.
- 5.Kunal Sarda, (20)
S/o.Prakash Sarda,
AD-77, 9th Main Road,
Near Blue star, Anna Nagar,
Chennai-600 040.
- 6.Asuthosh Sarda, (18)
S/o.Prakash Sarda,
AD-77, 9th Main Road,
Near Blue star, Anna Nagar,
Chennai-600 040.
- 7.Mukund Sarda, (21)
S/o.Kailash Sarda,
AD-77, 9th Main Road,
Near Blue star, Anna Nagar,
Chennai-600 040.
- 8.Amit Sarda (37)
S/o.Ramachandra Sarda,
AD-21, 9th Main Road,
Near Blue star, Anna Nagar,
Chennai-600 040.



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9.Tamanna Sarda (34)

W/o.Amit Sarda,
AD-21, 9th Main Road,
Near Blue star, Anna Nagar,
Chennai-600 040.

10.Pushpa Sarda (44)

W/o.Prakash Sarda,
AD-77, 9th Main Road,
Near Blue star, Anna Nagar,
Chennai-600 040.

11.Poonam Sarda, (43)

W/o.Kailash Sarda,
AD-77, 9th Main Road,
Near Blue Star, Anna Nagar,
Chennai-600 040.

12.Jagmohan Salamsingh Bisani (67)

S/o.Salamchand Bisani,
204,Omterrece, Near Ashirwad Jakatnaka
New city light, Surat City,
Gujarat-395 007.

13.Giriraj Bisani (57)

S/o.Salamchand Bisani,
AE-58, 5th Street,
10th Main Road, Anna Nagar,
Chennai-600 040.

.. Respondents

(12th & 13th respondents brought on record
as legal heirs of deceased 2nd respondent and
amended as per orders dated 22.11.2022 and
08.12.2022 in A.No.4682 of 2022 in
O.P.No.640 of 2021)



O.P.No.640 of 2021

PRAYER: Original Petition filed for grant of probate under Order XXV Rule 5 of the Original Side Rules read with Sections 224 & 276 of the Indian Succession Act, prays that the petitioner may be allowed to prove the Will at Chennai, in common form and that probate to have effect limited to the State of Tamil Nadu may be granted to the petitioners.

For Petitioners : Ms.R.Supriya

ORDER

The petitioners seek the grant of probate in respect of the last Will and testament of their father Magniram Sarda.

2. The petitioners assert that their father, Magniram Sarda, executed his last Will and testament on 21.01.2002 in the presence of the witnesses, whose names are set out at the foot of the Will. The present petition is presented by these petitioners in their capacity as executors under the Will. The 1st respondent is the wife of the testator and passed away after the petition was filed. Respondents 2 to 4 are the daughters of the testator. The 2nd respondent died while the petition was pending and her legal heirs are the 12th and 13th respondents. The 5th to 11th respondents are class II legal heirs of the testator and have been joined in their capacity as beneficiaries.



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3. In order to prove the Will, the petitioners adduced evidence by examining the first petitioner as PW1. In course of the examination in chief of PW1, the 30 documents listed at the foot of this order were exhibited as Exs.P1 to P30. The original unregistered Will (Ex.P1) discloses that the Will was executed on 21.01.2002 in the presence of Mr.T.Nageswaran and M.Balakrishnan. It is evident from the Will that the petitioners herein were named as executors. The beneficiaries under the Will have been named therein along with the nature of bequest. All the beneficiaries are parties to this petition. The death certificate of the testator (Ex.P2) discloses that he died on 17.02.2003. Documents evidencing the title of the testator to the assets bequeathed under the Will are on record (Exs.P3 to P17). The consent affidavits of Respondents 1 to 11 are on record (Exs.19 to Exs.29).

4. One of the attesting witnesses, T.Nageswaran, was examined as PW2 and he filed an affidavit in this regard, which was marked as Ex.P30. He deposed that he knew the testator since he worked in his office for 35 years. He further deposed that the Will was executed in his presence and in the presence of the other attesting witness.



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5. Based on the assertions in the petition and evidence adduced in support thereof, the Will stands duly proved. Consequently, the petitioners are entitled to the relief claimed.

6. Therefore, O.P.No.640 of 2021 is allowed by granting probate to the petitioner in respect of the last Will and testament dated 21.01.2002. Such probate shall have effect throughout the State of Tamil Nadu.

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Index : Yes

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Petitioners'witness:

P.W.1 – Mr.Ramachandra Sarda

P.W.2 – Mr.T.Nageswaran

Documents exhibited by the petitioner:

<i>Exhibit No.</i>	<i>Description</i>
Ex.P1	The original unregistered Will dated 21.01.2002 executed by Mr.Magniram Sarda.
Ex.P2	The original death certificate of Magniram Sarda.
Ex.P3	The photocopy of the share certificate of Mahindra Gesco



<i>Exhibit No.</i>	<i>Description</i>
	Developers Limited bearing certificate No.346936 standing in the name of M.R.Sarda (Compared with the original)
Ex.P4	The photocopy of the share certificate of Facor Alloys Limited bearing certificate No.214479 standing in the name of M.R.Sarda (Compared with the original).
Ex.P5	The photocopy of the share certificate of Facor Steels Limited bearing certificate No.314424 standing in the name of M.R.Sarda (Compared with the original).
Ex.P6	The photocopy of the share certificate of Ferro Alloys Corporation Limited bearing certificate No.114510 standing in the name of M.R.Sarda (Compared with the original).
Ex.P7	The photocopy of the share certificate of Clariant Chemicals (India) Limited bearing certificate No.00012523 standing in the name of M.R.Sarda (Compared with the original).
Ex.P8	The photocopy of the share certificate of Godrej Consumer Products Limited bearing certificate No.518101 standing in the name of M.R.Sarda (Compared with the original).
Ex.P9	The photocopy of the share certificate of Great Eastern Shipping Company Limited bearing certificate No.00223112 standing in the name of M.R.Sarda (Compared with the original).
Ex.P10	The photocopy of the share certificate of Great Offshore Limited bearing certificate No.00013501 standing in the name of M.R.Sarda (Compared with the original).
Ex.P11	The photocopy of the share certificate of TATA Motors Limited bearing certificate No.48539 standing in the name of M.R.Sarda (Compared with the original).
Ex.P12	The photocopy of the share certificate of Symphony Limited bearing certificate No.00804 standing in the name of Mangiram Sarda (Witness states that this original share certificate is with the company. This document is marked subject to its



<i>Exhibit No.</i>	<i>Description</i>
	admissibility, proof and relevancy).
Ex.P13	The photocopy of the share certificate of Aditya Spinners Limited bearing certificate No.33909 standing in the name of M.R.Sarda (Compared with the original).
Ex.P14	The photocopy of the share certificate of Kinetic Engineering Limited bearing certificate No.68734 standing in the name of M.R.Sarda (Compared with the original).
Ex.P15	The original letter dated 08.06.2017 addressed to the petitioners by the Karvy Computershare Private Limited.
Ex.P16	The photocopy of the share certificate of the Godrej Consumer products Limited bearing certificate No.0580737 standing in the name of M.R.Sarda (Compared with the original).
Ex.P17	The computer generated NSDL demat account statement for the period from 01.09.2018 to 30.09.2018.
Ex.P18	The affidavit of assets showing the net value of the estate as Rs.7,98,797.60.
Ex.P19	The consent affidavit given by the 1 st respondent.
Ex.P20	The consent affidavit given by the 2 nd respondent.
Ex.P21	The consent affidavit given by the 3 rd respondent.
Ex.P22	The consent affidavit given by the 4 th respondent.
Ex.P23	The consent affidavit given by the 5 th respondent.
Ex.P24	The consent affidavit given by the 6 th respondent.
Ex.P25	The consent affidavit given by the 7 th respondent.
Ex.P26	The consent affidavit given by the 8 th respondent.
Ex.P27	The consent affidavit given by the 9 th respondent.
Ex.P28	The consent affidavit given by the 10 th respondent.
Ex.P29	The consent affidavit given by the 11 th respondent.
Ex.P30	The affidavit of PW2 as attesting witness



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SENTHILKUMAR RAMAMOORTHY,J

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